

REMARKS

Applicants have carefully considered the Examiner's Final Office Action. In responding thereto, a minor grammatical amendment, not for patentability purposes, has been made to claim 3. Claim 11 has been canceled so as to minimize the outstanding issues.

On page 3 of the Office Action, numbered section 4, the Examiner asserted that the Sung et al. teaches the following limitation present in all of the rejected claims in one form or another:

"determining a level of access to the proxy server"

In support of this position the Examiner argued that the above identified limitation was taught:

"by determining the status of the server (step 100 of figure 5A)"

(page 3, numbered section 4 of Office Action)

However, Sung et al., unlike the limitation of the pending claims is addressing merely the availability of a selected server to accept new communications. Sung et al. expressly states in this regard:

"The router checks the status of the server that is referenced in the sticky IP cache table 50 at the process step 88, and determines whether the server is accepting new communications. At a decision block 100 the router interprets information and if the server's status is good then the router advances to a process step 92. In the process step 92 the router redirects the client to the server listed in the routing table 40" (Col. 7, ll. 58-65, Sung et al.; emphasis ours)

What Sung et al. is teaching as described above is the importance of determining if "the server is accepting new communications". This relates to availability of the subject server and not the above noted limitation from the pending claims. Once the server of Sung et al. is determined to be available there is absolutely no further consideration as to "determining a level of access to the proxy server" as claimed.

Rather, as is clear from step 92, Fig. 5A Sung et al., the router merely directs the client to the subject server.

As the Examiner is aware, anticipation requires that the allegedly anticipating documents disclose the claimed limitations in their entirety as claimed. As set forth in the MPEP in this regard:

"The identical invention must be shown in as complete detail as is claimed in the...The elements must be arranged as required by the claim" (MPEP 8 ed, rev (May 2004) pg 2100-73)

Thus, for at least the above reasons, none of pending claims 1-5, 9, 10 are anticipated by Sung et al.

Further, on page 2 of the Office Action in rejecting the above-identified claims in view of Sung et al. the Examiner stated that Sung et al. teaches:

"determining a level of access to proxy server (see figure 5, steps 84, 88, 100, 92 and column 7, lines 20-67)" (Page 2 Office Action, numbered section 3)

However, as described previously Fig. 5 and the associated steps therein merely address whether or not a particular server "is accepting new communications" (Col. 7, ll. 60, 61 Sung et al.) which addresses availability and not the claimed limitation. Simply put, Sung et al. does not determine a "level of access to proxy server" as argued on page 2 of the Office Action.

For at least the above reasons all of the pending claims, including 1-5, 9, and 10 are allowable. Allowance of the application is respectfully requested.

Appl. No. 09/986,484
Amendment B
Reply to Final Office Action mailed Nov. 28, 2005

The undersigned attorney would like to discuss the outstanding Office Action, the art and the pending claims with the Examiner via telephone interview. He will contact the Examiner in a few days to schedule same.

Respectfully submitted,

Dated: February 22, 2006

By 
Paul M. Vargo
Reg. No. 29,116
WELSH & KATZ, LTD.
120 South Riverside Plaza, 22nd Floor
Chicago, Illinois 60606
Phone: (312) 655-1500
Fax: (312) 655-1501